

Energy Agency (IAEA) safeguards or equivalent full scope safeguards;

(iii) Whether there is an agreement for cooperation in the civil uses of atomic energy between the U.S. and the importing country;

(iv) Whether the actions, statements, and policies of the government of the importing country are in support of nuclear nonproliferation and whether that government is in compliance with its international obligations in the field of nonproliferation;

(v) The degree to which the government of the importing country cooperates in nonproliferation policy generally (e.g., willingness to consult on international nonproliferation issues);

(vi) Intelligence data on the importing country's nuclear intentions and activities.

[61 FR 12802, Mar. 25, 1996, as amended at 61 FR 64284, Dec. 4, 1996; 62 FR 25459, May 9, 1997; 67 FR 55598, Aug. 29, 2002]

§ 744.3 Restrictions on Certain Rocket Systems (including ballistic missile systems and space launch vehicles and sounding rockets) and Unmanned Air Vehicles (including cruise missile systems, target drones and reconnaissance drones) End-Uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export, reexport, or transfer (in-country) an item subject to the EAR, without a license if at the time of the export, reexport or transfer you know the item:

(1) Will be used in the design, development, production or use of rocket systems or unmanned air vehicles capable of a range of at least 300 kilometers in or by a country listed in Country Group D:4 of Supplement No. 1 to part 740 of the EAR.

(2) Will be used, anywhere in the world, in rocket systems or unmanned air vehicles, regardless of range capabilities, for the delivery of chemical, biological, or nuclear weapons; or

(3) Will be used in the design, development, production or use of any rocket systems or unmanned air vehicles in or by a country listed in Country Group D:4, but you are unable to determine:

(i) The characteristics (*i.e.*, range capabilities) of the rocket systems or unmanned air vehicles, or

(ii) Whether the rocket systems or unmanned air vehicles, regardless of range capabilities, will be used in a manner prohibited under paragraph (a)(2) of this section.

NOTE TO PARAGRAPH (a) OF THIS SECTION: For the purposes of this section, "Rocket Systems" include, but are not limited to, ballistic missile systems, space launch vehicles, and sounding rockets. Also, for the purposes of this section, "unmanned air vehicles" include, but are not limited to, cruise missile systems, target drones and reconnaissance drones.

(b) *Additional prohibition.* BIS may inform, either individually, by specific notice, or generally through amendment to the EAR, that a license is required for a specific export, reexport or transfer of specified items to a certain end-user, anywhere in the world, because there is an unacceptable risk of use in or diversion to activities described in paragraphs (a)(1) or (a)(2) of this section. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse non-compliance with the license requirements of paragraphs (a)(1), (a)(2), or (a)(3) of this section.

(c) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraph (a) and (b) of this section.

(d) *License Review Standards.* (1) Applications to export, reexport or transfer the items subject to this section will be considered on a case-by-case basis to determine whether the export, reexport or transfer would make a material contribution to the proliferation of certain rocket systems, or unmanned air vehicles. When an export, reexport or transfer is deemed to make a material contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on an application required by this section:

(i) The specific nature of the end use;

(ii) The significance of the export, re-export or transfer in terms of its contribution to the design, development, production or use of certain rocket systems or unmanned air vehicles;

(iii) The capabilities and objectives of the rocket systems or unmanned air vehicles of the recipient country;

(iv) The nonproliferation credentials of the importing country;

(v) The types of assurances or guarantees against design, development, production, or use for certain rocket system or unmanned air vehicle delivery purposes that are given in a particular case; and

(vi) The existence of a pre-existing contract.

[61 FR 12802, Mar. 25, 1996, as amended at 62 FR 25459, May 9, 1997; 69 FR 64659, Nov. 8, 2004]

§ 744.4 Restrictions on certain chemical and biological weapons end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport an item subject to the EAR without a license if at the time of the export or reexport you know the item will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR).

(b) *Additional prohibition on exporters informed by BIS.* BIS may inform the exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for a specific export or reexport, or for export or reexport of specified items to a certain end-user, because there is an unacceptable risk of use in or diversion to such activities, anywhere in the world. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse the exporter from compliance with the li-

cense requirements of paragraph (a) of this section.

(c) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

(d) *License review standards.* (1) Applications to export or reexport items subject to this section will be considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on an application required under this section:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;

(iii) The non-proliferation credentials of the importing country;

(iv) The types of assurances or guarantees against design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case; and

(v) The existence of a pre-existing contract.⁵

[61 FR 12802, Mar. 25, 1996, as amended at 62 FR 25459, May 9, 1997]

§ 744.5 Restrictions on certain maritime nuclear propulsion end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport certain technology subject to the EAR without a license if at the time of the export or reexport you know the item is for use in connection with a foreign maritime nuclear propulsion project. This prohibition applies to any technology relating to maritime nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, devices, components, or equipment

⁵See Supplement No. 1 to part 742 of the EAR for relevant contract sanctity dates.